

MC-275

Name Andre BRAZZIL  
 Address 354 CALVRY DR  
EL Centro CA 92243

NUNC PRO TUNC

FILED

MAY 12 2008

2008 MAY 15 AM 9:34

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CDC or ID Number

F-39583

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA  
 880 FRONT STREET SUITE 4290  
 SAN DIEGO, CALIFORNIA 92101  
 (Court)

RM

DEPUTY

## PETITION FOR WRIT OF HABEAS CORPUS

No.

07CV2421 BTM (NLS)  
 (To be supplied by the Clerk of the Court)

ANDRE BRAZZIL

Petitioner

vs.

PEOPLE OF THE STATE OF CALIFORNIA

Respondent

REAL PARTY IN INTEREST

## INSTRUCTIONS — READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form before answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished the Supreme Court and Court of Appeal.

## This petition concerns:

☒ A conviction☐ Parole☐ A sentence☐ Credits☐ Jail or prison conditions☐ Prison discipline☐ Other (specify): \_\_\_\_\_

1. Your name: ANDRE BRAZZIL
2. Where are you incarcerated? CALIFORNIA INSTITUTION FOR MEN AT CHINO
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reasons for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

FELON IN POSSESSION OF FIREARM

- b. Penal or other code sections: PENAL CODE SECTION 17021 (a)(1)

- c. Name and location of sentencing or committing court: SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF IMPERIAL, EL CENTRO

- d. Case number: JCF 18572

- e. Date convicted or committed: SEPTEMBER 7, 2006

- f. Date sentenced: SEPTEMBER 7, 2006

- g. Length of sentence: 2 years

- h. When do you expect to be released? AUGUST 31, 2007

- i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:

JAVIER GARIBAY

4. What was the LAST plea you entered? (check one)

☐ Not guilty ☒ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have? N/A

☐ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

## 6. GROUNDS FOR RELIEF

**Ground 1:** State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

The Trial Court Abused its Discretion in Failing to Rule the Charged Offense, Possession of a Firearm by a Felon, a Misdemeanor, and Exceeded its Statutory Authority in Denying Petitioner Probation and Imposed Prison Because Petitioner's Alleged Status as Being a Felon Was Not  
(CONTINUE ON NEXT PAGE)

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

On August 23, 2006, Petitioner was arrested for possession of a Firearm, A Revolver, a family's Antiqu.

On August 25, 2006, a complaint was filed alleging that Petitioner committed A felony, namely: Possession of a Firearm by a Felon. SEE EXHIBIT A.

On September 7, 2006, Petitioner withdrew his not guilty plea and pled guilty to A felony: only having possessed A Firearm. He did not knowingly admit nor otherwise stipulate that he was a felon and personally addressed that alleged issue to the Court. SEE EXHIBIT B, which is attached hereto & incorporated by reference.

The Trial Court did not advise Petitioner of his right to a jury trial on the issue of him being previously convicted allegedly nor obtain his waiver of such right. He did not know this right. Had he known he would have gone to jury trial and the alleged status would not be proven true. No evidence of the alleged felon status was before the court. Petitioner was not a felon. Also Court did not advise him of his rights to confront witnesses or against self-incrimination. Nor did he waive those either.  
SEE EXHIBITS C & D

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

In re Yurko (1970) 10 Cal.3d 857, 112 CR 513, 519; In re Boatwright, 15 P.2d 755, 216 C 277 (failed to prove fact of a previous conviction); People v Baird (1990) 12 Cal.4th 126, 48 Cal. Rptr.2d 65; Wash. Am. Const. art 1, §28; People v Bouzard (1991) 53 C3d 467, 279 Cal. Rptr.2d 844;

California v Cunningham (2007) U.S. — 2007 Daily Journal DAR 1003, Jan. 23, 2007 at p. 15 (An element of the charged offense, essential to a jury's determination of guilt, or admitted in defendant's guilty plea does not qualify as such a circumstance in aggravation.)

## GROUND 1 CONTINUES

Admitted nor stipulated to by petitioner nor was it otherwise proved by a jury where also the trial court erred in to expressly advise petitioner of his right to a jury trial on the issue of the alleged prior felony conviction status or to obtain a waiver of that right, thereby violating his right to a jury trial. This violated petitioner's rights to due process, 6th and 14th Amendments as guaranteed by U.S. Constitution and State Laws.

8. Did you appeal from the conviction, sentence, or commitment? ☐ Yes. ☒ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

N/A

b. Result: N/A c. Date of decision: \_\_\_\_\_

d. Case number or citation of opinion, if known: N/A

e. Issues raised: (1) N/A

(2) N/A

(3) N/A

f. Were you represented by counsel on appeal? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

9. Did you seek review in the California Supreme Court? ☐ Yes. ☒ No. If yes, give the following information:

a. Result: N/A b. Date of decision: N/A

c. Case number or citation of opinion, if known: \_\_\_\_\_

d. Issues raised: (1) N/A

(2) N/A

(3) N/A

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

NO APPEAL WAS TAKEN.

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

N/A

b. Did you seek the highest level of administrative review available? ☐ Yes. ☒ No. N/A  
 Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction commitment, or issue in any court? ☐ Yes. If yes, continue with number 13. ☒ No. If no, skip to number 15.

13. a. (1) Name of court: N/A
- (2) Nature of proceeding (for example, "habeas corpus petition"): N/A
- (3) Issues raised: (a) N/A
- (b) N/A
- (4) Result (Attach order or explain why unavailable): N/A
- (5) Date of decision: N/A
- b. (1) Name of court: N/A
- (2) Nature of proceeding: N/A
- (3) Issues raised: (a) N/A
- (b) N/A
- (4) Result (Attach order or explain why unavailable): N/A
- (5) Date of decision: N/A

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

N/A

N/A

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

PETITIONER HAD NO ACCESS TO JAIL'S NOR PRISON'S LAW LIBRARIES TO RESEARCH. ALSO HAD DELAYS IN OBTAINING COURT DOCUMENTS, SUCH AS THE MINUTE ORDER. NO TRANSCRIPTS ARE AVAILABLE.

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

THERE IS NO OTHER ADEQUATE REMEDY AT LAW TO PRESENT PETITIONER'S CLAIMS EXCEPT FOR THIS PETITION. THIS COURT HAS PROPER JURISDICTION.

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters I believe them to be true.

Date: 5-9-08

Andru Byg  
(SIGNATURE OF PETITIONER)



ORIGINAL

EXHIBIT 11  
123

L.A. # F-96-04837  
GILBERT G. OTERO  
District Attorney  
Imperial County  
County Administration Center, 1<sup>st</sup> Floor  
940 West Main Street  
El Centro, CA 92243  
Telephone (760) 482-4331

Attorney for Plaintiff

FILED

AUG 25 2006  
SUPERIOR COURT  
IMPERIAL COUNTY, CA  
JOSE G. GUILLEN, CLERK  
BY [Signature] DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL  
JAIL DEPARTMENT

THE PEOPLE OF THE STATE OF CALIFORNIA  
Plaintiff,

vs.

ANDRE LEWIS BRAZZEL,

Defendant(s)

No. JQ18572

COMPLAINT  
(FELONY)

THE UNDERSIGNED, ON INFORMATION AND BELIEF, COMPLAINS AND  
SAYS, THAT WITHIN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, THE  
DEFENDANT(S) COMMITTED THE FOLLOWING CRIME(S) AS FOLLOWS:

COUNT 1

On or about the 23rd day of August, 2006, said defendant(s), ANDRE LEWIS BRAZZIL did  
commit a **FELONY**, namely: **POSSESSION OF FIREARM BY A FELON - PRIOR(S)**, a violation  
of Section 12021(A)(1) of the Penal Code of the State of California, in that said defendant(s): did  
willfully and unlawfully own, possess, purchase, receive, and have custody and control of a firearm, to  
wit, A REVOLVER, the said defendant having theretofore been duly and legally convicted of a felony  
or felonies, to wit:

EXHIBIT A  
2 of 3


COURT #: CODE/STAT: CONV DATE: COUNTY: STATE: CRT TYPE:

CF-1528 PC459 3/20/96 IMPERIAL CA SUPERIOR

**COUNT 2**

On or about the 23rd day of August, 2006, said defendant(s), **ANDRE LEWIS BRAZZIL** did commit a **FELONY**, namely: **UNLAWFUL FIREARM ACTIVITY**, a violation of Section 12021(C)(1) of the Penal Code of the State of California, in that said defendant(s): did willfully and unlawfully own, possess, purchase, receive, and have custody and control of a firearm, to wit, **HANDGUN**, the said defendant having been convicted within the immediate past 10 years of the following crimes: 242/243PC; 242/243PC; 245(A)/17B PC.

I declare under penalty of perjury that the foregoing is true and correct and executed on August 25, 2006 at El Centro, California.

  
EL CENTRO POLICE DEPARTMENT

DISCOVERY REQUEST: Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

9/07/06

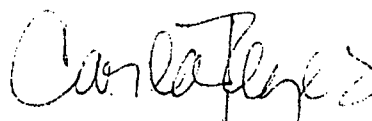




EXHIBIT 14

373

GILBERT G. OTERO, DISTRICT ATTORNEY

By: Joseph F. Beard  
JOSEPH F. BEARD  
ASSISTANT DISTRICT ATTORNEY

SUBSCRIBED AND SWORN TO BEFORE ME ON \_\_\_\_\_, AT  
EL CENTRO, COUNTY OF IMPERIAL, CALIFORNIA, AND IT APPEARING TO THE  
COURT THAT PROBABLE CAUSE EXISTS FOR THE ISSUANCE OF A WARRANT OF  
ARREST FOR THE ABOVE-NAMED DEFENDANT(S), THE WARRANT IS SO ORDERED.

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

GGG:cr

1072

## Declaration of Andre Brazzil

I, Andre BRAZZIL, declare that:

On September 7, 2006, at the preliminary examination proceedings I was arguing with my appointed public defender, Mr. JAVIER GARIBAY. I was telling him that I was not a felon!

He replied, "Yes, you are!"

I argued back, "No! I'm not!"

He again replied, "Yes! You are!"

Finally, I gave up and turned to the trial judge, MATIAS R. CONTRERAS. Our dialogue as follows:

Me: "May I ask the Judge a question?"

Judge: "Ask your counselor."

Garibay: "Yes. Go ahead."

Me: "I went to jury duty last year and got a check for it. Then how can I be a felon?"

Judge: "Well, Mr. BRAZZIL? Did you cash that check?"

Me: "Yes."

Judge: "Well, be it!"

When I was asked "how did I plea to possession of a firearm?", I withdrew my 'not guilty' plea and pled guilty. It was my understanding and belief that I was only admitting that I did have my family's treasured old gun in my possession. I never admitted as to having been previously convicted of a felon nor did I stipulate knowingly as to such.

The trial court never advised me of my right to a jury trial to resolve and determine the truth to the alleged issue of me having a felon status. Had I known of that

## DECLARATION OF Andre BRAZZIL CONTINUED

UNFILED  
20/2

RIGHT TO A JURY TRIAL I WOULD HAVE DEMANDED IT AND GONE TO TRIAL AND IT, THE ALLEGED FELON STATUS, WOULD HAVE NOT BEEN PROVEN. NOR DID THE TRIAL COURT OBTAIN A WAIVER OF MY RIGHT TO A JURY TRIAL. I AM NOT A FELON.

I AM THE PETITIONER IN THIS ACTION. ALL FACTS ALLEGED IN THE ABOVE DECLARATION, NOT OTHERWISE SUPPORTED BY CITATIONS TO THE RECORD, EXHIBITS, OR OTHER DOCUMENTS, ARE TRUE OF MY OWN PERSONAL KNOWLEDGE.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE ABOVE IS TRUE AND CORRECT AND THAT THIS DECLARATION WAS EXECUTED ON 5-9-08 \_\_\_\_\_, at CHINO, CALIFORNIA.

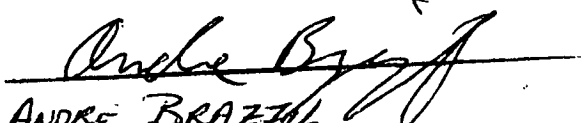
  
ANDRE BRAZZIL  
IN PRO PER

EXHIBIT L

SUPERIOR COURT OF CALIFORNIA COUNTY OF IMPERIAL	
<b>People</b> Plaintiff,  vs.  <b>Andres Lewis Brazzil</b> Defendant.  DOE                      10-21-89	Jud. Officer: <b>Matias R. Contreras</b> Clerk: <b>Carla Reyes</b> Bailiff: <b>Andrew Lowenthal</b> CSR: <b>Leslie Brock</b> Interpreter: <b>Not Required</b> Language: <b>---</b>  Plaintiff Counsel/DA: <b>Ben Salorio</b>  Defendant Counsel/PD: <b>Javier Garibay</b>
Minutes: <b>Preliminary Examination</b>	Case No. <b>JCF18572</b> <b>Jail Court</b>
Date: <b>September 7, 2006</b>	
Charges: <b>Count 1: PC12021(A)(1)</b>	

☒ Defendant present ☒ in custody ☒ with counsel.

**PLEA:**

- ☒ Defendant advised and understands the maximum penalties, consequences of his plea, the possible defenses  
☒ consequences of violation of probation ☒ possible deportation if not a citizen of the United States  
☒ Court inquired and finds there have been no threats or promises made.  
☒ Defendant advised by the court of the right to a trial, the right of silence, the right to confront and cross-examine witnesses and the right to subpoena witnesses in his behalf; defendant waived each of these rights.  
☒ Stipulation as to the factual basis for the plea.  
☒ The court finds a ☒ written ☐ oral knowing, intelligent, voluntary, understanding and explicit waiver of constitutional rights and a factual basis for the plea.  
☒ Nature of the charges stated by the Court.  
☒ Defendant withdraws NOT GUILTY plea and enters a plea of  
☒ **GUILTY to Count 1, Felon in Possession of Firearm in violation of penal code section 12021(a)(1), a felony.**  
☒ On motion of the District Attorney's Office Count 2 is dismissed.

Counsel requests his client be sentenced forthwith. No objection by the People.

**SENTENCING:**

- ☒ Probation ☒ denied. Defendant committed to ☒ State Prison ☒ Lower Term of 2 years.  
☒ Defendant given credit for **24** days served in the county jail (16+8).  
☒ Pursuant to PC 296 (a) (1), the defendant is required to provide two specimens of blood, a saliva sample, right thumb print, and a full palm print impression of each hand for law enforcement identification analysis.  
☒ Defendant shall pay a restitution fine in the sum of **\$ 200.00** pursuant to PC 1202.4(b).  
☒ Defendant shall pay a restitution fine in the sum of **\$ 200.00** pursuant to PC 1202.45.  
☒ **Matter is set for Receipt of Report on 10/19/06 at 9:00 a.m., County Jail Department.**  
  
☒ Defendant is remanded into custody.

9/07/06

Carla Reyes

*[Not to be used for multiple count convictions or for 1/3 consecutive sentences]*

CR-290

ABSTRACT OF JUDGMENT - PRISON COMMITMENT - DETERMINATE  
SINGLE, CONCURRENT, OR FULL-TERM CONSECUTIVE COUNT FORM

your copy

**CIM - MSF  
PROOF OF SERVICE BY MAIL**

(C.C.P. §1013a; §2015.5; Fed.R.Civ.P. 5; 28 U.S.C. 1746)

I am over the age of eighteen years, a citizen of the United States, a resident of the State of California, (A) and and not a party to the within action. My mailing address is: CALIFORNIA INSTITUTION FOR MEN, P.O. BOX 500, CHINO, CA 91708.

On the following date: (B) April 25, 2007, I served the following document(s): (C)

PETITION FOR WRIT OF HABEAS CORPUS; ATTACHED EXHIBITS &  
DECLARATION.

On the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, addressed as follows to the following parties: (D)

<u>Superior Court</u>	<u>DISTRICT ATTORNEY'S OFFICE</u>	<u>ATTORNEY GENERAL'S OFFICE</u>
<u>Title Clerk's Office</u>	<u>939 W. MAIN STREET</u>	<u>P.O. BOX 944555</u>
<u>939 W. MAIN ST.</u>	<u>EL CENTRO, CA 92243-2842</u>	<u>SACRAMENTO, CA 95834-2550</u>
<u>EL CENTRO, CA 92243-2842</u>		

I am readily familiar with the normal business practices for collection and processing of correspondence and other materials for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, in a sealed envelope with postage fully prepaid, it is deposited in a box so provided at the correctional institution in which I am presently confined.

I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(F) Name: BENJAMIN EDWARDS CDCR#: F39925

Signed: Benjamin Edwards Dated: April 25, 2007

**CIM MAILROOM ACKNOWLEDGEMENT OF MAILING**

DATED: \_\_\_\_\_ STAFF: \_\_\_\_\_

SIGNED: \_\_\_\_\_



IMPERIAL COUNTY SUPERIOR COURT

DEPARTMENT

STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA vs. AN L. BRAZZIL Defendant.Case No. 572Date 8-25-09Judge Contreras

DOB \_\_\_\_\_

SS# \_\_\_\_\_

## NOTICE, SENTENCE, COMMITMENT FORM

NEXT COURT APPEARANCE DATE 8-3-09DEPT. CCHARGES P 12021(C)(1)

FOR:

☐ Readiness Hearing☐ Enroll/Review/completion☐ Alcohol Program (Care)☐ Entry of plea.☐ Bail/O.R. Review.☒ Pretrial conference.☐ Diversion Hearing.☒ Preliminary Examination.☐ Report to \_\_\_\_\_☐ Payment Review.☐ Jury Trial.☐ Court Trial.☐ Probation Sentencing.☐ Guilty by plea/verdict.☐ Continued arraignment.☐ at address on reverse side on or before \_\_\_\_\_☐ Interpreter Required.☐ C.C.P. 170.6 Judge \_\_\_\_\_☐ Case dismissed.☐ To employ own attorney.☐ Defense atty. 704824510☐ Vacate.☐ For interview.☐ Arrangement for Payment of Attorney Fees.☒ Other \_\_\_\_\_

## CUSTODIAL STATUS BEFORE SENTENCE:

☒ Remanded to custody of Sheriff until next appearance.☐ Remain at liberty on bail.☐ Released on own recognizance.Bail \$ 500☐ Defendant ordered discharged.

## SENTENCE AND CUSTODIAL STATUS

☐ Fine: pay fine of \$ \_\_\_\_\_ including penalty assessment, less \$ \_\_\_\_\_ for time served, or spend one day in jail for each \$ \_\_\_\_\_ of fine unpaid by due date of \_\_\_\_\_☐ Jail: Serve \_\_\_\_\_ days in jail, with credit for time served pursuant to P.C. 2000.5☐ Sentence to be served consecutively with \_\_\_\_\_☐ Stay of execution granted until \_\_\_\_\_ at \_\_\_\_\_ and defendant ordered to surrender to Sheriff at that time.☐ Probation granted/ other.☐ appear in Court on due date at \_\_\_\_\_ M, if fine remains unpaid.☐ Pay fine of \$ \_\_\_\_\_ to Clerk of Court at address on reverse side.To be paid ☐ By \_\_\_\_\_

Default in payment of any installment accelerates due date for entire fine to date of default.

☐ In installments at the rate of☐ O.R. Officer directed to interview defendant & submit written/ oral report

\$ \_\_\_\_\_ on \_\_\_\_\_ of each week.

to Judge \_\_\_\_\_ By \_\_\_\_\_

I certify the foregoing is a true copy of the judgment rendered on the above date by the above named Judge.

JOSE O. GUILLÉN, CLERK OF THE ABOVE NAME COURT

BY \_\_\_\_\_

Deputy

TO THE SHERIFF:

The foregoing certified copy of judgment in the above entitled action is your authority for the execution thereof.

DEFENDANT, BEING RELEASED ON HIS OWN RECOGNIZANCE, AGREES THAT: (a) Defendant acknowledges that if he or she is charged with a misdemeanor & willfully fails to appear as required, after being released on his or her own recognizance, in order to evade the process of the Court, is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 6 months or a \$1,000 fine or both. (b) If he fails to so appear and is apprehended outside the State of California, he waives extradition. (c) Any Court or magistrate of competent jurisdiction may revoke the order of release and either return him to custody or require that he give bail or other assurance of his appearance as provided in part 2, title 10, chapter 1 of Penal Code.

Witnessed by \_\_\_\_\_ Executed on \_\_\_\_\_ By \_\_\_\_\_ Defendant

DISTRIBUTION: D.A. P.D./DEFENSE ATTORNEY (JAIL) PROBATION (DEFENDANT) REPORTER O.R. OFFICER



865577-22875

IMPERIAL COUNTY SUPERIOR COURT Jail DEPARTMENT  
STATE OF CALIFORNIATHE PEOPLE OF THE STATE OF CALIFORNIA  
VS.Case No: JCF19572Interpreter NoneDate: 9/07/06Reporter L. BrockJudge M. ContrerasDOB: 6/10/70Andres, Lewis Brazzel

Defendant

## COMMITMENT, CERTIFICATION

## APPEARANCES

Defendant and attorney / P.D.

Garibay, J.

Deputy Dist. Attorney

Salorio, P.

## PRELIMINARY EXAMINATION HELD

- ☐ Preliminary examination was held on the above date and it appearing to the above named Judge that a felony violation of \_\_\_\_\_ has been committed and that there is sufficient cause to believe the above named defendant GUILTY thereof, it is ordered that he be held to answer the same.

Count 2 dismissed

## PLEA OF GUILTY

Guilty ☒

The above named defendant, being charged in a complaint on file in this Court under the above case number, and having entered a plea of GUILTY to a felony violation of PC 102.5(a)(1), it is ordered that this case together with a copy of all proceedings be referred to the Superior Court for this County.

DATE: 9/7/06JUDGE: Math? Cont

## PRELIMINARY EXAMINATION WAIVED

- ☐ The above named defendant, being charged in a complaint on file in this Court under the above case number, and having waived preliminary examination on the charges, the Court and the District Attorney consenting thereto, it is ordered that he be held to answer the same.

## CUSTODIAL STATUS

Guilty ☒Defendant committed to Custody of Sheriff. Prob denied

Admit to bail of \$ \_\_\_\_\_

☐Defendant released on his own recognizance. SP LT 2yrs☐ Defendant to remain free on bail.

## FURTHER PROCEEDINGS

☐

Defendant ordered to report to Probation Department at address on reverse side within one Court day.

☒Defendant ordered to appear in Superior Court on 10/17/06 @ 10:00 AMJOSE O. GUILLEN, CLERK OF THE ABOVE NAMED COURT. BY Carla Refe Deputy

TO THE SHERIFF: The foregoing certified copy of judgment in the above entitled action is your authority for the execution thereof. DEFENDANT, BEING RELEASED ON HIS OWN RECOGNIZANCE, AGREES THAT: (a) He/she will appear at all times and places as ordered by the Court or magistrate releasing him/her and as ordered by any Court in which, or any magistrate before whom, the charge is subsequently pending. (b) If he/she fails to so appear and is apprehended outside the State of California, she/he waives extradition. (c) Any Court or magistrate of competent jurisdiction may revoke the order of release and either return him/her to custody or require that he/she give bail or other assurance of his/her appearance as provided in part 2, title 10, chapter 1 of the Penal Code. (d) The acknowledgment of the defendant that he/she has been informed of the consequences and penalties applicable to violation of the conditions of release.

Witnessed by \_\_\_\_\_ Executed on \_\_\_\_\_ By \_\_\_\_\_ Defendant

DISTRIBUTION: D.A. P.D./DEFENSE ATTORNEY

7/20/2006 1:27:25 PM

State of California

Page 1 of 1

## Juror History Report

Juror Number: 851010

Juror Name: ANDRE LEWIS BRAZZIL

Date	Time	User	Description
07/27/2007	16:00:34	Stella Munoz	Excused FELONY
07/27/2007	16:00:33	Stella Munoz	Juror Qualification Update - Inquiry Only
07/27/2007	15:56:40	Stella Munoz	JIMS-Do Not Report On 07/30/2007
07/03/2007	09:13:53	Stella Munoz	Summons Sent JU5-300 to appear 07/30/07
09/14/2006	14:23:22	Stella Munoz	Defer to 07/30/2007 IN JAIL/FELONY?
09/14/2006	14:23:22	Stella Munoz	Juror Qualification Update
08/22/2006	08:52:08	Stella Munoz	Summons Sent ST3-1324 to appear 09/18/06

Shows I was not Felony

MC-275

Name Andre BRAZZIL  
354 CALURY DR.  
 Address EL Centro Ca 92243

**FILED**

MAY 09 2007

SUPERIOR COURT  
 IMPERIAL COUNTY CA.  
 JOSE O. GUILLEN, CLERK  
 BY [Signature] DEPUTY

CDC or ID Number F39583

UNITED STATES District court  
 SOUTHERN DISTRICT OF CALIFORNIA  
 880 FRONT STREET, SUITE 4290  
 (Court)  
 SAN DIEGO, CALIFORNIA 92101-8900

## PETITION FOR WRIT OF HABEAS CORPUS

No. EAC 00865  
 (To be supplied by the Clerk of the Court)

ANDRE BRAZZIL  
 Petitioner  
 vs.  
PEOPLE OF THE STATE OF CALIFORNIA  
 Respondent  
REAL PARTY IN INTEREST

## INSTRUCTIONS — READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished the Supreme Court and Court of Appeal.

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